

## **CAMDEN PLANNING BOARD**

### **Minutes of Meeting**

**May 19, 2010**

**PRESENT:** Chair Chris MacLean; Members Richard Householder, Kerry Sabanty and Lowrie Sargent, Alternate Member Sid Lindsley; and CEO Jeff Nims.

**ABSENT:** Member Jan MacKinnon, Alternate Member Nancy McConnel

#### **1. PUBLIC COMMENT:**

No one came forward.

#### **2. MINUTES:**

April 7, 2010:

Page 4:

Line 30: "The code goes into effect this ~~June~~ December for towns..."

Line 32: "~~2010~~ 2012..."

Page 5: Line 22 was deleted.

**MOTION by Mr. MacLean seconded by Mr. Lindsley to approve the Minutes of April 7, 2010.**

**VOTE: 5-0-0**

May 5, 2010

Page 1: Line 12: "Mr. Lindsley understands that so far the group..."

**MOTION by Mr. MacLean seconded by Mr. Sabanty to approve the Minutes of May 5, 2010.**

**VOTE: 5-0-0**

#### **3. SITE PLAN REVIEW: WHARF EXTENSION**

**Fred Blake: 50 Bayview Street: Map 119 Lot 9: Inner Harbor (BTH District)**

The owner was represented by Gary Neville of Permit Consultants, agent for Fred Blake, seeking permission to extend an existing wharf to his SW boundary line by adding a section that will be 9 ½' wide on one end and 13' at the other. Mr. Neville explained that the same construction methods that were used during the recent repair and renovation of the existing wharf and sea wall on property owned by ADF, Inc (in which Mr. Blake is a principle) will be employed here. Details of that project are shown on the engineered drawings prepared by Kleinschmidt Engineering; details of this proposed expansion are shown on a Site Plan prepared by Landmark Corporation. The project will entail driving four piling, putting a timber cap on each set of piling, joisting it over and covering with a wood deck. The Army Corps and DEP have approved the project, a Submerged Lands Lease is in place, and easements are in place. Mr. Neville informed the Board of a letter from the neighbors abutting saying that they approve of the project – there is no controversy, but the letter was not submitted.

Mr. MacLean:

- Has notice gone to abutters? The CEO replied that will happen when giving notice of the Public Hearing.
- What the purpose of the expansion? Mr. Neville replied that the owner will attempt to lease the downstairs of the existing building to a commercial marine use that would make use of this area. Mr. Blake, who will live upstairs, can also use the space to recreate. Mr. Neville also

noted that at this time there are floats placed in front of Mr. Blake's building, so this is an area that is not currently directly accessible to boats using the harbor – there should be no additional impact to harbor users with this expansion.

- Has the Harbor Committee reviewed this application? Mr. Nims replied that they had done so at their last meeting and, in their advisory capacity, had sent their recommendation for approval to the Town Manager for forwarding on to the Select Board when the application is heard by them in late June. Mr. Sabanty asked if the vote of the Harbor Committee had been unanimous, and Mr. Neville replied that it had and that nothing controversial was raised during the review. Mr. Sabanty then asked if there was anything in the Comprehensive Plan that spoke to this expansion. Mr. Nims informed the Board of the permitting process that is outlined, a facet of which is the two-phase review process by the Planning Board and the Select Board with the Harbor Committee offering and advisory opinion.

Mr. Lindsley asked if Mr. Blake realized that he could not include access from this wharf to the harbor because his frontage was less than the required 40' to do so. Mr. Neville replied that Mr. Blake has an agreement with ADF tenants for use of the existing gangway to access the floats below.

Mr. Sabanty asked if the owner would have to come back to the Board for a change of use since it was recently a bookstore if it is to be a marine use in the future. Mr. Nims reminded the Board that this application has nothing to do with the future use of the building – this is a permit for the expansion of the wharf only.

### **Section 3. Site Plan Content**

When the owner of the property or his authorized agent makes formal application for site plan review, his application shall contain at least the following exhibits and information:

Note: Applications for Piers, Wharves, etc, are subject to an abbreviated submission requirement (see (5) below).

The Site Plan submissions consist of the following documents:

- Application packet dated May 5, 2010 containing: Site Plan Application, a letter from Fred P. Blake dated September 4, 2009 designating Permit Consultants as agent for this review and a listing of the Site Plan contents.
- Sheet 1: Tax Map Plan dated September 18, 2009
- Sheet 2: Wharf cross-section dated September 18, 2009
- Site Plan prepared by Landmark Associates dated October 2, 2009
- Plan and Section of Camden Waterfront Restaurant Sea Wall Repair prepared by Kleinschmidt Engineering dated June 2, 2006
- GIS tax map section showing location of property
- Maine DEP Permit signed and dated March 22, 2010
- Army Corps of Engineers Permit signed and dated February 10, 2010 (date not entirely legible)
- Maine DOC Submerged Lands Lease Amendment dated February 24, 2010
- Penobscot Indian Nation sign-off dated December 4, 2009
- Maine Historic Preservation Commission sign-off dated November 23, 2009

(a) *Owner's name and address*

Provided with Application.

(c) *Sketch map showing general location of the site within the Town*  
Shown on Tax Map Plan and GIS section.

(d) *Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.*  
Shown on Tax Map Plan.

(l) *the location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained and of any new landscaping planned.*  
There are none on this property. It was clarified that the municipal drainage system and outlet is located on the abutting property.

(m) *Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.*

**OUTSTANDING ITEM:**

The Board asked for a larger scale, full-size Site Plan showing all of the property and providing more details regarding all of the easements. Although the Agent stated that all details are shown on the Plan, there are several easements without dimensions or description. A copy of the deed was submitted this evening to provide written descriptions – there appear to be no covenants. The CEO was asked to match the easements in the deed against those shown on the Plan. A full survey will be submitted for the next meeting to provide additional information not shown on the Plan.

(o) *Location and type of exterior lighting.*  
There is none planned at this time.

(5) In addition to items (a), (c), (d), (l), (m) and (o) in Section 3, applications for Piers, Wharves, Breakwaters and Boat Ramps shall include:

(a) *A site plan stamped and sealed by an engineer registered in the State of Maine.*

**OUTSTANDING INFORMATION:**

Mr. Neville tried, but failed, to convince the Board that the Kleinschmidt Plan prepared for previous work to the existing wharf should be allowed to serve as the official stamped and engineered plan because it contains all of the details regarding engineered construction plans that the Board requires. The Board insisted that the Kleinschmidt Plan was irrelevant because it did not show the proposed extension – that had been hand-drawn in by the Agent. Mr. Neville, who works for the marine construction company contracted to do the work to both wharves, insisted that the Kleinschmidt engineer had discussed the proposed project, and that all parties had agreed to go forward using the same specifications outlined in the earlier plan and applying those construction methods to this project. That argument did not satisfy the Board who agreed that the Ordinance specifically requires that the actual Site Plan must depict this particular project, and that the Plan must be stamped and sealed by an engineer. The Board must have a Plan before them that indicates exactly what it is that they are being asked to approve and they didn't believe they had that document. They gave the Agent two choices:

- Go back to Kleinschmidt and have them amend the engineered Plan to include this project
- Go back to Landmark, who prepared the actual Site Plan here, and have an engineer stamp and seal an expanded Plan containing the information requested above

Although protesting that this requirement would provide no information the Board did not already have and would simply cost the owner more money, Mr. Neville agreed to provide a revised Site Plan from Landmark.

(b) *An elevation showing the height of the pier in relation to normal high water.*

**OUTSTANDING ITEM:**

The cross section provided (Sheet 2) shows the Mean Low Water Line not the Normal High Water Line required by this Ordinance. Mr. Neville will add that information to the drawing.

(c) *A pier section.*

Shown on Sheet 2.

(d) *A detailed erosion control plan, including a schedule of construction. The schedule shall include the kind of motorized equipment, how and when it will be used below high or low water.*

Not applicable: there is no construction below high or low water.

(e) *A detailed plan showing how oils, greases or other contaminates will be separated and handled.*

Not applicable: there will be no soils or other materials excavated that might contain these kinds of contaminates; and wood is treated prior to its arrival on site.

(f) *Copies of required Maine Department of Conservation submerged lands lease, Maine Department of Environmental Protection and United States Army Corps of Engineers permits, provided, however, that the Board may approve site plans subject to the issuance of specified State and Federal approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of site plan review.*

Provided.

SITE WALK: Set for Tuesday May 25<sup>th</sup> at 7:15am.

PUBLIC HEARING: Set for June 2<sup>nd</sup>.

Mr. Sargent noted that although the Ordinance does not require a Signature Block for this category of construction, it should because one is needed. The ordinance needs to be amended to add the item to the list required submissions for Piers and Wharves.

**DISCUSSION:**

1. *Site Plan Review pre-applications:* There were none.
2. *Minor Field Adjustments:* There were none.
3. *June 2<sup>nd</sup> Meeting:* Blake Wharf Expansion/Public Hearing/Site Plan Review
4. *Downtown design standards*

Mr. Householder noted that the group formed to work on revisions to the original proposal had their second meeting. The group as of now consists of Mr. Householder, Mr. Lindsley, Arthur Kirklian representing the Downtown Business Group, Mark DiMichelle from the Historic Resources Committee and David Dickey representing the public. (Mr. Dickey responded to the

newspaper ad asking for volunteers to serve.) They scaled back on the number of submissions originally required in order to reduce time and expense to the applicant. They also discussed how to apply these standards just to those with franchises – which they defined (for the sake of discussion) as an applicant with more than three locations in the country. Mr. Dickey was concerned that some local lessees cannot afford the time and the expense to go through this process – they need to jump on the opportunity when it comes up or lose it.

The group made the following changes:

#### Section 1. (8)

The Chair was asked to again describe his legal concerns with regard to differentiating between franchises and other applicants – he doesn't see a way to do so that wouldn't put the town in legal jeopardy.

Mr. Sargent offered his opinion that the changes made to date have weakened the amendment. The Board will make the changes they felt necessary this evening instead of sending the request to do so back to the Design Group.

1. They will add information on what triggers the requirement for review into Section 1. (8) so it is clear from the beginning what the term “relate to” in the group's revised offering actually does relate to.

2. Section 2 (b) as amended by the Group pretty much means that there will be no review of minor projects at all.

3. Regarding submission requirements Mr. Sargent suggests that this is more than an informal review and that the Board should stick to their original requirements for detailed information. The Design group had removed the color trigger and submission requirement and the Board agreed not to make that an issue. The Group also agreed that the term “historic features” is too subjective – who determines what is an historic feature – and took out that submission requirement as well. Mr. Householder noted that this discussion led to a discussion of the need for a new ordinance specifically addressing historic buildings and features.

4. Section 6. Approval Criteria: The discussion turned to whether or not the review should be required, and the Board discussed perhaps making the review compulsory but compliance voluntary. The Chair wonders if the review is voluntary is the ordinance even worth having. Mr. Sargent believes it is a good way to test the ordinance to see whether the procedure works and how it might be improved. Mr. Sargent supports the mandatory review with specific submissions required and voluntary compliance – the Planning Board can encourage applicants to make changes the Board might recommend and hope they will to gain public support for their project.

The Group made the following changes to the Approval Criteria:

- The requirement regarding pitched or gabled roofs for new single story buildings was removed.
- The building scale criteria regarding breaking up the mass of large buildings, was removed.

As a general comment the Board agreed that there should be some time frame in which multiple changes could not be made to buildings on a one-by-one (e.g.) basis before they would be required to be added up to see if they should kick in as a trigger for review. They also discussed whether or not the property owner should be notified – or if written permission should be required as a submission requirement – when a lessee comes before the Board.

The Design Group noted that the new Building Code will make renovations much more costly to do in the future even though, as the CEO informed the Board, the rehab portion of the code has been revised so it is easier to make these kinds of changes. The rehab code has many exceptions from the building code and only applies to the area being rehabbed.

#### *5. Proposed Ordinance Amendments:*

- The CEO informed the Board that he had seen a proposal for a Conference Center in the Coastal Residential District. The Applicants want to take their request to add this as a permitted use to the voters in November. The Chair announced that he will recuse himself from deliberation on this proposal because his law partner is involved with this project.
- The CEO did use the GIS maps to overlay town water lines on VE District lots where there might be the possibility of reducing the minimum lot size based on the State's minimum. The Board's concern on reducing the lot size was whether a smaller lot could safely accommodate septic and a well with room for a back-up septic as well. Mr. Nims found that there were about 75 lots in total with few that could be divided – this probably didn't justify amending the Ordinance.
- Mr. Nims put in a call to the "high elevation" proposal forester and is waiting to hear back.
- The "Pesticide group" has decided to hold off on any proposal for the time being.
- The work on the Wind Energy Ordinance is tabled for now.
- With regard to the November Amendments: the Board changed the proposal to amend the Subdivision Ordinance at Article 9 by changing the word "majority" to "75%"; with this change  $\frac{3}{4}$  of the lots in a subdivision would have to be sold before the developer could apply to the Town to take over the roads.

With the changes there are only four amendments left to go to the voters this fall. The Board and the CEO want to keep the list short and shy of controversy in order to keep confusion caused by all the Comp Plan amendments to a minimum.

#### *6. Gateway I/Comp Plan Amendments:*

The Chair is waiting still for information from MDOT so he can make some recommendations to the Board. He did get some information on the Views section, but still needs more. He does want to get all these amendments ready to go for two reasons: even if the amendments don't go to the voters in November the Board's work will be done and they can concentrate on other things; he doesn't want to have to turn a half-finished list of amendments over to his replacement to try to pick up mid-stream.

*7. Other:*

(1) Mr. Householder asked the Board to move forward with their decision to address historic buildings and their features and how to develop design standards to accomplish this – either as part of the Downtown Design Standards the Board is currently working on or as a separate ordinance all together. He believes it is time to address this issue and asks that a committee be formed. He has gone back over the comments from the December 2, 2009, round-table discussion and wants to involve some of those who spoke at that meeting if they are willing to participate. He suggests forming a specific committee to work on specific review criteria and a process to accomplish this review. The Historic Resources Committee will not take this on as a project – a member or two may participate but that will be the extent of involvement. They may offer advice on what should be used as criteria for inclusion as “historic” and perhaps have some ideas on how the review should be conducted – will they take part at that stage? It is not known. Mr. Householder is interested in serving as is Mr. Sargent.

(2) Mr. Sargent is very interested in participating in the Historic Standards work but would like to step down as representative to CEDAC first. The group meets every other Monday evening from 5–7 pm. The Planning Board representative is a non-voting resource sitting in on meetings to offer advice on the Ordinances when amendments or processes are discussed. The Board thanked Ms. MacKinnon in advance for filling this position. Members were supportive of wanting to see her attend these meetings, and commend her for her spirit of volunteerism; members await her acknowledgement.

There being no further business before the Board they adjourned at 7:00 pm.

Respectfully submitted,  
Jeanne Hollingsworth, Recording Secretary